

AO 440 (Rev. 03/08) Civil Summons

# UNITED STATES DISTRICT COURT

for the

Northern District of California

Keystone America, Inc. dba Jones and Lewis Clear Lake

Memorial Chapel

Third-Party Plaintiff

v.

Mullare Murphy Funeral Home, Inc. a Colorado

Corporation, and ROES 1-100,

Third-Party Defendant

Civil Action No. C07-03441 WDB

## Summons in a Civil Action

### ON THIRD PARTY COMPLAINT

To: MULLARE MURPHY FUNERAL HOME

*Third Party (Defendant's name)*

A lawsuit has been filed against you.

Within 30-20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, whose name and address are:

*\Third Party Plaintiff's*

LEWIS BRISBOIS BISGAARD & SMITH LLP

ANDJE MOROVICH, ESQ. (SBN 251288)

One Sansome Street, Suite 1400

San Francisco, CA 94104

If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

AUG - 8 2008

Date: \_\_\_\_\_

Richard W. Wieking

Name of clerk of court

JESSIE MOSLEY

Deputy clerk's signature

(Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States allowed 60 days by Rule 12(a)(3).)

## RETURN OF SERVICE

State of Colorado County of Las Animas

I declare under oath that I served this summons, a copy of the complaint in this case, and a blank answer form, on the Defendant in Las Animas County, State of Colorado, on 8/11/08 (date), at 10:32 AM (time), at the following location: 335 East Main Street, Trinidad, CO 81082

- ☒ by handing them to a person identified to me as the defendant, Thomas Murphy
- ☐ by identifying these documents, offering to deliver them and then leaving them with a person identified to me as the defendant, \_\_\_\_\_, who refused service.
- ☐ by leaving them at the defendant's usual place of abode with \_\_\_\_\_ a member of the defendant's family who is over the age of 18.
- ☐ by leaving them at the defendant's usual place of business with \_\_\_\_\_ the defendant's secretary, bookkeeper or chief clerk.
- ☐ by leaving them with \_\_\_\_\_ (name), who as \_\_\_\_\_ (title) is authorized to receive service of process for the defendant.
- ☐ by serving them as follows (other service permitted by CRCP 304): \_\_\_\_\_
- ☐ I have made diligent efforts but have been unable to make personal service on the defendant and I have made service of the within summons, complaint and answer by posting a copy of them in a conspicuous place upon the premises described therein.
- ☒ I am over the age of 18 years and am not interested in nor a party to this case.
- ☐ I attempted to serve the defendant on \_\_\_\_\_ occasions but have not been able to locate the defendant. Return to the plaintiff is made on \_\_\_\_\_ (date).

Date 8/12/08

Signature

☐ Private Process Server☒ Sheriff, Las Animas County

Service: \$ \_\_\_\_\_ Mileage: \$ \_\_\_\_\_

Subscribed and sworn to before me on 8/12/08 (date).My commission expires: 05/20/10

Notary Public

Melinda A San Roman

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Civil Action No. C07-03441 WDB

### Summons in a Civil Action

### ON THIRD PARTY COMPLAINT

To: MULLARE MURPHY FUNERAL HOME

*Third Party (Defendant's name)*

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, whose name and address are:

LEWIS BRISBOIS BISGAARD & SMITH LLP

*Third Party Plaintiff's*

ANDJE MOROVICH, ESQ. (SBN) 251288)

One Sansome Street, Suite 1400

San Francisco, CA 94104

If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

AUG - 8 2008

Date: \_\_\_\_\_

Richard W. Wieking

Name of clerk of court

**JESSIE MOSLEY**

Deputy clerk's signature

(Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States allowed 60 days by Rule 12(a)(3).)

NDCA0440

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4 San Francisco, California 94104

Telephone: (415) 362-2580

5 Facsimile: (415) 434-0882

6 Attorneys for KEYSTONE AMERICA, INC. dba

JONES AND LEWIS CLEAR LAKE MEMORIAL CHAPEL

8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA – OAKLAND DIVISION

11 THE FAMILY OF LELA KAYE HORNER:  
Harold Horner, Connie Britt, Andy Horner,  
12 Cherly Horner,

13 Plaintiffs,

14 v.

15 KEYSTONE AMERICA, INC., dba JONES  
AND LEWIS CLEAR LAKE MEMORIAL  
16 CHAPEL, and DOES 1-100,

17 Defendants.

18 KEYSTONE AMERICA, INC. dba JONES  
19 AND LEWIS CLEAR LAKE MEMORIAL  
CHAPEL,

20 Cross-Complainants,

21 v.

22 MULLARE, MURPHY FUNERAL HOME,  
23 INC. a Colorado Corporation, and ROES 1-100,

24 Cross-Defendants.  
25

CASE NO. C07-03441 WDB

DEFENDANT'S CROSS-COMPLAINT  
FOR INDEMNITY AGAINST MULLARE  
MURPHY FUNERAL HOME FOR:

1. Total Equitable Indemnification;
2. Apportionment of Fault/  
Contribution;
3. Declaratory Relief

[Filed concurrently with Stipulation to Allow  
Cross-Complaint]

26 COMES NOW Cross-Complainants KEYSTONE AMERICA, INC. dba JONES AND  
27 LEWIS CLEAR LAKE MEMORIAL CHAPEL ("Cross-Complainants"), who hereby complain  
28 and allege, as follows: